

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MICHAEL YETNIKOFF and DANIEL
YETNIKOFF, assignees from the Estate of
Walter Yetnikoff,

Plaintiff(s),

-against-

NANCY MILLER.

Defendant(s).

Civil Case No.:

COMPLAINT

JURY TRIAL DEMANDED

1. Plaintiffs, MICHAEL YETNIKOFF and DANIEL YETNIKOFF, (“Plaintiffs”) by and through their undersigned attorneys, for their Complaint against defendant, NANCY MILLER, (“Miller”) alleges as follows:

NATURE OF ACTION

2. This is an action for a breach of contract based on Miller’s failure to the Estate of Walter Yetnikoff, and/or Plaintiffs the amount due pursuant to a promissory note (the “Note”), which became due and owing on December 21, 2022.

PARTIES

3. Plaintiff, MICHAEL YETNIKOFF, is natural person residing in the state of Indiana.
4. Plaintiff, DANIEL YETNIKOFF, is a natural person residing in the state of California.
5. Defendant, NANCY MILLER, is a natural person residing in the state of New York.

JURISDICTION AND VENUE

6. Pursuant to 28 U.S.C. § 1332, this Court has jurisdiction over this action because the matter in controversy exceeds exceeds the sum of \$75,000, exclusive of interest and costs, and there is complete diversity of citizenship between the parties.

7. Pursuant to 28 U.S.C. § 1391, venue properly lies in this Court because a substantial part of the events giving rise to the claims occurred in this jurisdiction.

STATEMENT OF FACTS

8. On January 17, 2017, Miller executed a promissory Note payable to Walter Yetnikoff, stating the principal sum of TWO HUNDRED THOUSAND (\$200,000.00) DOLLARS. A copy of said Note is annexed hereto as **Exhibit A**.

9. Said Note provided for a full repayment of the principal on December 31, 2022.

10. On February 2, 2017, Miller confirmed her execution of the Note before, Seymour F. Corenthal, a Notary Public, State of New York.

11. Walter Yetnikoff passed away on August 8, 202, in the State of Connecticut.

12. On January 25, 2022, the Last Will and Testament was submitted to the State of Connecticut – Probate Court for Westport.

13. On August 26, 2022, the Probate Court issued a Fiduciary Probate Certificate to Lynda Yetnikoff, the decedent's widow.

14. On January 20, 2023, Lynda Yetnikoff, as executor of the estate of Walter Yetnikoff, assigned the Note to Plaintiffs, pursuant to a Mutual Distribution And Settlement Agreement approved by the Probate Court. A copy of said assignment is annexed hereto as **Exhibit B**.

15. Miller has failed to the amounts due and owing pursuant to the Note.

COUNT I

BREACH OF CONTRACT

16. Plaintiff repeats and realleges as through fully set forth herein the allegations of Paragraphs 1 through 15 of the Complaint.

17. The Note is an enforceable agreement that imposes certain obligations upon Miller.

18. Miller has breach the terms of the Note by failing to make certain agreed upon interest payments.

19. Miller further breached the terms of the Note by failing to make the principal payment, which became due and owing on December 31, 2022.

20. As a direct and proximate result of Miller's breaches, Plaintiffs has suffered damages in an amount not less than \$200,000.00.

COUNT II

UNJUST ENRICHMENT

21. Plaintiff repeats and realleges as through fully set forth herein the allegations of Paragraphs 1 through 20 of the Complaint.

22. As set forth above, Miller failed to make the principal payment, which became due and owing on December 31, 2022, and certain interest payments.

23. As a direct and proximate result of Miller's breaches, Plaintiffs has suffered damages in an amount not less than \$200,000.00.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendant as follows:

A. Awarding Plaintiffs damages against Defendant in an amount not less than \$200,000.00, plus applicable interest;

B. Awarding Plaintiffs attorneys' fees, costs, and disbursements incurred as a result of this action; and

C. Awarding Plaintiff such further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial on all issues.

Dated: March 5, 2023

Respectfully submitted,

By: s/ Joseph K. Jones
Joseph K. Jones, Esq.
jkj@legaljones.com

JONES, WOLF & KAPASI, LLC
One Grand Central Place
60 East 42nd Street, 46th Floor
New York, New York 10165
(646) 459-7971 telephone
(646) 459-7973 facsimile

Attorneys for Plaintiffs

Exhibit

A

NOTE

Dated: January 1, 2017

\$200,000.00

FOR VALUE RECEIVED, NANCY K. MILLER residing at 60 Sutton Place South, Apt. 10D, New York, NY 10022

Promise to pay to WALTER YETNIKOFF having offices at P.O. Box 632, Garriston, NY 10524 the principal sum of TWO HUNDRED THOUSAND (\$200,000.00) DOLLARS with interest thereon to be computed from the date hereof, at the rate of Three Point Forty-One (3.41%) per centum per annum and to be paid on the 1st day of January in the year 2017, next ensuing and monthly thereafter in 60 equal and constant monthly payments of \$568.33, applied towards interest. The principal of the Note is due on December 31, 2022. Borrower has the right to prepay the loan either partially or in full at any time and will not incur any penalties for any prepayment.

IT IS HEREBY EXPRESSLY AGREED, that the said principal sum secured by this note shall become due at the option of the holder thereof on the happening of any default.

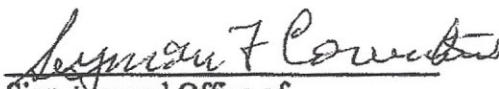
All terms and conditions of this Note shall be interpreted under the laws of New York.

This Note may not be changed or terminated orally.


NANCY K. MILLER

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

On the 2nd day of FEBRUARY in the year 2017 before me, the undersigned, personally appeared NANCY K. MILLER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Signature and Office of
Individual taking acknowledgment

SEYMOUR F. CORENTHAL
Notary Public, State of New York
No. 02CO4664785
Qualified in Queens County
Term Expires August 31, 2018

Exhibit

B

ASSIGNMENT OF PROMISSORY NOTE

This Assignment (the "Assignment") is made by Lynda Yetnikoff, as executor of the estate of Walter Yetnikoff (the "Executor").

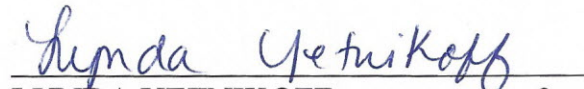
WHEREAS, Walter Yetnikoff (the "Decedent") died on August 8, 2021; and

WHEREAS, the Decedent was the named payee of a certain promissory note dated January 1, 2017 from Nancy K. Miller (the "Payor") in the principal amount of Two Hundred Thousand Dollars (\$200,000), a copy of which is attached hereto as Exhibit A (the "Note"); and

WHEREAS, the Executor is desirous of executing this Assignment in order to formalize the transfer of the Note, of which the entire Two Hundred Thousand Dollars (\$200,000) of the principal and interest remains outstanding, in accordance with a certain Mutual Distribution and Settlement Agreement (the "Settlement Agreement") dated July 21, 2022 between the Executor and Michael Yetnikoff and Daniel Yetnikoff.

NOW THEREFORE, the undersigned hereby grants, bargains, sells, conveys, assigns, transfers and sets over said Note in the principal amount of Two Hundred Thousand Dollars (\$200,000) to Michael Yetnikoff and Daniel Yetnikoff, together with all of the Decedent's and the Executor's right, title, and interest in and to said Note.

IN WITNESS WHEREOF, the undersigned has caused this Assignment to be executed as of the 20th day of January 2023.


LYNDA YETNIKOFF, as executor of
the estate of Walter Yetnikoff

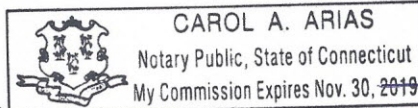
STATE OF CONNECTICUT }
 } ss: Fairfield
COUNTY OF FAIRFIELD }

On this the 20th day of January 2023, before me, LYNDY YETNIKOFF, signer of the foregoing instrument, personally appeared, and acknowledged the execution of such instrument to be her free act and deed.

Carol A. Arias

Commissioner of the Superior Court
Notary Public

My Commission Expires: 11/30/2024

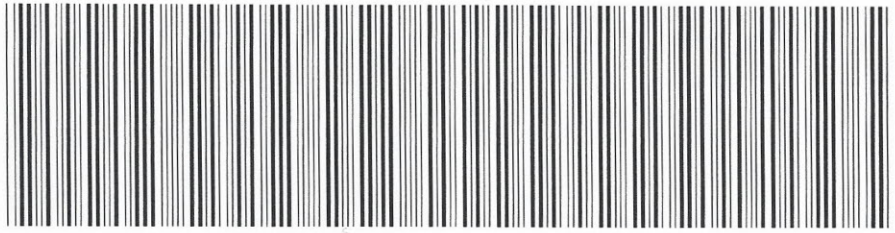


H:\A\Yetnikoff.W&L\ES\Assignment of Promissory Note.docx

2024

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.


2023012300344001001E5613
RECORDING AND ENDORSEMENT COVER PAGE
PAGE 1 OF 3
Document ID: 2023012300344001
Document Date: 01-23-2023
Preparation Date: 01-23-2023
Document Type: UCC3 ASSIGNMENT
COOPERATIVE WITH ADDENDUM
Document Page Count: 1
PRESENTER:

BRODY WILKINSON PC
2507 POST ROAD
FL 2
SOUTHPORT, CT 06890
203-319-7100
RSCACCHIA@BRODYWILK.COM

RETURN TO:

BRODY WILKINSON PC
2507 POST ROAD
FL 2
SOUTHPORT, CT 06890
203-319-7100
RSCACCHIA@BRODYWILK.COM

Borough		Block	Lot	Unit	Address
MANHATTAN		1365	20	10D	60 SUTTON PLACE SOUTH
Property Type: SINGLE RESIDENTIAL COOP UNIT					

CROSS REFERENCE DATA
CRFN: 2017000141387
PARTIES
DEBTOR:

NANCY K. MILLER
60 SUTTON PLACE, APT. 10D
NEW YORK, NY 10022

SECURED PARTY:

WALTER YETNIKOFF
P O BOX 632
GARRISON, NY 10524

☒ Additional Parties Listed on Continuation Page

FEES AND TAXES
Mortgage :

Mortgage Amount:	\$	0.00	Filing Fee:	\$	0.00
Taxable Mortgage Amount:	\$	0.00	NYC Real Property Transfer Tax:	\$	0.00
Exemption:					
TAXES: County (Basic):	\$	0.00	NYS Real Estate Transfer Tax:	\$	0.00
City (Additional):	\$	0.00			
Spec (Additional):	\$	0.00			
TASF:	\$	0.00			
MTA:	\$	0.00			
NYCTA:	\$	0.00			
Additional MRT:	\$	0.00			
TOTAL:	\$	0.00			
Recording Fee:	\$	40.00			
Affidavit Fee:	\$	0.00			